

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KRISTIN HARDY,

Plaintiff,

v.

R. MORENO, et al.,

Defendants.

Case No. 1:21-cv-00327-ADA-EPG (PC)

ORDER GRANTING PLAINTIFF'S  
MOTION TO AMEND DECLARATION IN  
SUPPORT OF MOTION FOR DEFAULT  
JUDGMENT

(ECF No. 139)

Kristin Hardy ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. On March 28, 2022, Plaintiff filed a motion for default judgment against defendant Ceballos. (ECF No. 50). On April 22, 2022, issued an order holding this motion "in abeyance until judgment is appropriate for the remaining defendants or upon further order of the Court." (ECF No. 54). On January 9, 2023, Plaintiff filed a motion to amend his declaration in support of his motion for default judgment (ECF No. 139), which is now before the Court.

Plaintiff requests to amend his declaration so that it is consistent with his pleadings. In his declaration in support of his motion for default judgment, Plaintiff requested monetary relief based on the issuance of a Rules Violation Report for delaying a peace officer. However, Plaintiff's claims relate to an unreasonable search and seizure, not the issuance of an RVR. Plaintiff asks for permission to amend his declaration "to delete the damages calculation and theory of recovery based on the issuance of a rule violation report." (ECF No. 139, p. 2).

1 Plaintiff also asks the Court to “amalgamate the amended declaration into the court’s previous  
2 order staying the motion for judgment by default.” (Id.). The amended declaration is attached  
3 to Plaintiff’s motion. (Id. at 3).

4 Given that defendant Ceballos has not responded to Plaintiff’s motion for default  
5 judgment and the Court has not yet ruled on Plaintiff’s motion for default judgment, the Court  
6 will grant Plaintiff’s motion to amend his declaration.

7 Accordingly, IT IS ORDERED that:

- 8 1. Plaintiff’s motion to amend his declaration in support of his motion for default  
9 judgment (ECF No. 139) is GRANTED;
- 10 2. The Court will consider Plaintiff’s amended declaration (ECF 139, p. 3) when  
11 issuing its ruling on Plaintiff’s motion for default judgment; and
- 12 3. The Court continues to hold Plaintiff’s motion for default judgment in abeyance  
13 until judgment is appropriate for the remaining defendants or upon further order of  
14 the Court.

15  
16 IT IS SO ORDERED.

17 Dated: **January 12, 2023**

18 /s/ Eric P. Grogan  
UNITED STATES MAGISTRATE JUDGE